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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,557	08/05/2003	Marcel J.G. Janssen	2003B078	6031

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EXAMINER

JOHNSON, CHRISTINA A

ART UNIT PAPER NUMBER

1725

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/634,557

Applicant(s)

JANSSEN, MARCEL J.G.

Examiner

Christina Johnson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 34-43 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-14 is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 15 and 20-33 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 16-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-33, in the reply filed on July 9, 2004 is acknowledged. The traversal is on the ground(s) that the claims of Group II are so closely related to the claims of Group I that they should remain in the application to preserve unity of invention. This is not found persuasive. That is not the test for distinctness as set forth by the examiner in the previous office action. Applicant has not demonstrated that the process cannot be accomplished with the product proposed by the examiner in the previous office. Further, because the search for Group II is not required by the search for Group I, search and examination of the entire application cannot be conducted without serious burden.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 34-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 9, 2004.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 6-7, 15, 20-22, 24-27, and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 278 535.

EP 0 278 535 discloses a catalyst composition useful in hydrocarbon conversion processes. The catalyst composition contains a catalytically active material, a sulfur oxides binding material and a matrix material (page 2, lines 1-5). Suitable catalytically active materials include molecular sieves such as zeolite X, zeolite Y, ZSM-5, ZSM011, ZSM-12, and ZSM-22 (page 4, lines 50-55). The reference teaches that the sulfur oxide material is an anionic clay which contains a rare earth metal such as cerium or lanthanum (page 4, lines 15-30). The anionic clay may be impregnated with an aqueous solution of the rare earth metal compound (page 4, lines 30-35). The amount of materials taught by the reference meets the amount of materials instantly claimed. The catalyst composition is formed by mixing the anionic clay, catalytically active material, and matrix material to form a slurry, spray drying to form particles, and calcining (page 5 and Examples).

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by EP 0 278 535.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 278 535 as applied to claims 1, 6-7, 15, 20-22, 24-27, and 29-33 above, and further in view of WO 01/38271.

The teachings of the EP reference are as described above for claims 1, 6-7, 15, 20-22, 24-27, and 29-33.

The difference between the reference and the claims is that the reference does not disclose the specific rare earth metal compound employed.

WO 01/38271 teaches that in the general preparation of rare-earth promoted catalysts, a solution containing a soluble rare earth salt, such as the chloride, is dispersed by impregnation onto a support or carrier (page 2, lines 25-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the method of the EP reference to include the use of a rare earth metal chloride in light of the teaching by the WO reference that the use of such a salt is conventional in the preparation of rare earth promoted catalysts. One of ordinary skill would have been motivated to employ any conventional preparation techniques, including the use of a chloride compound, with a reasonable expectation of success.

#### ***Allowable Subject Matter***

7. Claims 2-5 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. Claims 8-14 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest a catalyst composition comprising a hydrotalcite compound in combination with a molecular sieve selected from silicoaluminophosphates, aluminophosphates, metal containing forms thereof, and mixtures, including intergrowths.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Johnson whose telephone number is (571) 272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Christina Johnson*  
Christina Johnson  
Patent Examiner  
Art Unit 1725  
9/9/04

CAJ  
September 9, 2004